

AN ACT

To amend sections 1531.10, 1533.34, 1533.341, 1533.342, 1533.35, 1533.36, 1533.42, 1533.62, 1533.63, 1533.631, and 1533.64 and to enact sections 1533.343 and 1533.641 of the Revised Code to make changes to the law governing commercial fishing and to create the Ohio Lake Erie Fishing Regulatory Reform Task Force to evaluate certain fisheries management practices with respect to Lake Erie and to make recommendations to the General Assembly and the Division of Wildlife in the Department of Natural Resources regarding statutory, rulemaking, and regulatory changes.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1531.10, 1533.34, 1533.341, 1533.342, 1533.35, 1533.36, 1533.42, 1533.62, 1533.63, 1533.631, and 1533.64 be amended and sections 1533.343 and 1533.641 of the Revised Code be enacted to read as follows:

Sec. 1531.10. In accordance with Chapter 119. of the Revised Code, the chief of the division of wildlife shall adopt, and may amend and rescind, rules that are necessary for the administration and enforcement of this chapter and Chapter 1533. of the Revised Code. Each such rule shall be given publicity by advertising or otherwise as the chief considers necessary or expedient. With respect to any proposed adoption of or change to a rule that regulates the taking of commercial fish or establishes related provisions, the chief shall provide, by certified mail, notification of the proposal to each holder of a valid commercial fishing license issued under section 1533.35 of the Revised Code. As long as a rule of the division of wildlife remains in effect, a copy of it shall be included and printed in any authorized compilation of the division lawbook. All such rules shall be under the seal of the division and shall bear the signature, or a facsimile thereof, of the chief.

Sec. 1533.34. No person shall use or operate, for the purpose of taking fish, a boat, net, or device other than a minnow net or hook and line with bait or lure, in any of the waters of the state wherein fishing with nets is licensed by law, without a license for that gear from the chief of the division of wildlife. The application for a license and all licenses required by section 1533.35 of the Revised Code shall be in such form as the chief prescribes.

When a person applies to the chief for a license, the chief, ~~upon receiving the proper fees,~~ may issue the license if the person satisfies the qualifications established in division (C) of section 1533.342 of the Revised Code and the chief receives the proper fees. Upon proof of violation of this section, the chief may refuse to issue or renew any license. A license shall remain in force and entitle the holder thereof to fish as permitted by law from the date of issuance to and including the last day of the season for which the license was issued. The license shall be carried by the operator of a boat, net, or other device while the boat, net, or other device is being used in fishing and shall be exhibited on demand to any wildlife officer, constable, sheriff, deputy sheriff, or other police officer, or the chief. No licensee shall fail to exhibit the license on demand to any proper officer. Each boat, net, or other device used in fishing contrary to this section and each net or other device used or operated without having the metal license tag attached thereto as provided by law constitutes a separate offense.

Nonresident commercial ~~fishermen~~ fishers and their fishing gear shall not be licensed to fish in this state unless a reciprocal agreement is in force. A resident who purchases commercial fishing gear from out of state, or purchases a boat that has been registered less than a year in the state, shall give bona fide evidence of ownership of at least fifty-one per cent of the boat or gear whenever requested to do so by the chief or ~~his~~ the chief's designated representative.

No person shall fail to comply with any provision of this section or division rules adopted pursuant thereto.

Sec. 1533.341. The chief of the division of wildlife with the approval of the wildlife council, in managing the Lake Erie fishery resources, may utilize and establish by division rule a quota management system that shall consist of determining on a scientific basis by species and number or pounds the maximum allowable annual taking of those fishery resources or part thereof in order to prevent over exploitation of any species and assure the conservation and wise use of all species, and the determination on an equitable basis of the distribution of that maximum allowable annual taking between and within the sport and commercial interests fisheries.

The chief and the council, in determining and establishing the

apportionment of the maximum allowable annual taking of a species between the sport and commercial ~~interests~~ fisheries, shall be guided by ~~the proportional sport and commercial taking of the species during the immediately preceding five years and other~~ pertinent scientific, economic, and social data.

The chief and the council, in determining the distribution of the apportionment within the commercial ~~industry~~ fishery, ~~also shall consider the proportional commercial taking of the species within the commercial industry during the immediately preceding five years and other~~ pertinent scientific, economic, and social data.

No person shall fail to comply with any quota set pursuant to this section, other provisions of this section, or division rule adopted pursuant thereto.

~~In addition to other penalties provided in the Revised Code, the license of any person who is convicted of two violations of this section that occurred within a twelve-month period is suspended upon the second such conviction by operation of law for a period of sixty fishing season days immediately following that conviction.~~

~~In addition to other penalties provided in the Revised Code, the license of any person who is convicted of three or more violations of this section that occurred within a twelve-month period is suspended upon the third or subsequent such conviction by operation of law for a period of eighteen fishing season months immediately following that conviction.~~

~~During any period of suspension, no person shall use or engage in fishing with commercial gear owned, used, or controlled at the time of conviction by the licensee whose license has been suspended.~~

~~Any person whose license has been suspended or revoked by operation of law pursuant to any provision of this chapter or Chapter 1531. of the Revised Code is not eligible to apply for or receive a new license during the period of the suspension or revocation.~~

No person who holds a commercial fishing license issued under section 1533.35 of the Revised Code and who uses trap nets shall harvest a quantity of yellow perch that is in excess of the amount of yellow perch that is allocated for the person's commercial fishing license in accordance with the quota set pursuant to this section. In addition, no person who holds a commercial fishing license and no employee of such a person shall possess at the same time on a boat on the waters of Lake Erie any yellow perch that have been taken from more than one statistical district established under division rule for the purpose of implementing the quota set pursuant to this section.

Sec. 1533.342. (A) The chief of the division of wildlife, with the approval of the wildlife council, may limit the type and number of commercial fishing licenses to be issued for fishing in the Lake Erie fishing district and other water wherein nets are licensed by law, except that such limitations shall not prohibit any person who was issued an Ohio commercial fishing license in the prior fishing season from being issued, upon satisfaction of the qualifications established in division (C) of this section and proper application, a license of the same type for the current fishing season unless the issuance of such a license is prohibited by this chapter or Chapter 1531. of the Revised Code or division rule.

In limiting the number and type of licenses, the chief and the council shall give consideration to the number and type of licenses needed to harvest the fish determined to be harvestable; the capacity of the boats and characteristics of the equipment owned or used by the applicant; and any other facts or data relating to the protection, preservation, management, and utilization of fish species in a biologically sound manner.

(B) The chief, in prescribing forms for license applications, may require the applicant to list information relating to the kind and condition of boats and fishing equipment proposed to be used by the applicant, port or ports of entry, years of commercial fishing experience, quantity and kinds of fish taken during the previous five years, conviction records relating to Chapter 1531. and this chapter of the Revised Code and division rules, and any other facts the chief determines necessary to assist ~~him~~ the chief in determining whether or not the applicant may engage in commercial fishing in accordance with those chapters and division rules. All questions shall be answered fully and completely by the applicant. The application shall be sworn to and signed by the applicant before a person authorized to administer oaths.

(C) Any person, ~~other than persons licensed during the prior fishing season~~, prior to making application for an Ohio commercial fishing license, first shall satisfy the following qualifications to the satisfaction of the chief: over eighteen years of age; no prior conviction of or plea of guilty on or after the effective date of this amendment to a felony concerning commercial fishing activities for a violation of state or federal law; ninety days Ohio residency immediately preceding application; two years commercial fishing gear experience or holder of an Ohio commercial license of another gear; and posting of a one thousand dollar performance bond or cash deposit in a like amount. In the event the person does not meet these pre-application qualifications or does meet those qualifications, but a license is not granted, the bond or cash deposit immediately shall be returned by the

division. In the event the person is granted a license, the bond or cash deposit shall be held by the division during the term of the license.

(D) In determining the terms and conditions of any commercial fishing license, the chief, with the approval of the wildlife council, may do both of the following:

~~(A)~~(1) Fix by species, the weight, number, or size of fish to be taken;

~~(B)~~(2) Specify the home port and up to two alternate ports at which the licensee shall land ~~his~~ the licensee's catch, as listed on the licensee's application.

(E) Any wildlife officer, or other division employee designated by the chief to inspect commercial fishing operations, may enter upon any property used, owned, or leased by the holder of a commercial fishing license and may inspect any boat, net, seine, or other equipment used in commercial fishing; any building or premises used to hold, store, repair, or build commercial fishing gear or equipment; and any building or premises used in boxing, storing, or processing fish. No person shall assault, threaten, abuse, or interfere with any wildlife officer or designated inspector when carrying out an inspection under authority of this section, nor shall any person prohibit such an inspection.

(F) No person shall fail to comply with this section or a division rule adopted pursuant thereto.

(G) No person having been issued a commercial fishing license shall fail to comply with all terms, specifications, and conditions set forth in the license.

(H)(1) In addition to other penalties provided in the Revised Code, the license of any person who is convicted of assaulting, threatening, abusing, or interfering with any person inspecting by authority of this section is suspended upon such conviction by operation of law for a period of eighteen fishing season months immediately following that conviction.

(2) In addition to other penalties provided in the Revised Code, the license of any person who is convicted of two violations of provisions of this section relating to inspection or terms and conditions of any commercial fishing license that occurred within a twelve-month period is suspended upon the second such conviction by operation of law for a period of sixty fishing season days immediately following that conviction.

(3) In addition to other penalties provided in the Revised Code, the license of any person who is convicted of three or more violations of provisions of this section relating to inspection or terms and conditions of any commercial fishing licenses that occurred within a twelve-month period is suspended upon the third or subsequent such conviction by operation of

law for a period of eighteen fishing season months immediately following that conviction.

(I) During any period of suspension, no person shall use or engage in fishing with commercial gear owned, used, or controlled at the time of conviction by the licensee whose license has been suspended.

Sec. 1533.343. On and after March 1, 2008, no commercial fishing licensee shall use or engage in fishing with commercial gear unless the licensee uses vessel and catch monitoring devices in accordance with requirements and procedures established by the chief of the division of wildlife. The chief shall establish requirements and procedures concerning vessel and catch monitoring devices by division rule. A licensee shall pay the costs of purchasing, installing, and maintaining the devices.

Sec. 1533.35. (A) Commercial fishing devices shall be annually licensed as follows:

(1) Trap and fyke nets, for the first twenty nets or any portion thereof, eight hundred dollars; and for each additional group of ten such nets or any portion thereof, four hundred dollars;

(2) For each seine of one hundred fifty rods or less in length other than an inland fishing district seine, four hundred dollars;

(3) For each seine over one hundred fifty rods in length other than an inland fishing district seine, six hundred dollars;

(4) For each inland fishing district seine, one hundred dollars;

(5) For each carp apron, one hundred dollars;

(6) For one trotline with seventy hooks or less attached thereto, twenty dollars;

(7) For each trotline, or trotlines, with a total of more than seventy hooks attached thereto, one hundred dollars;

~~(8) For each dip net, one hundred dollars.~~

The license fee for other commercial fishing gear not mentioned in this section, as approved by the chief of the division of wildlife, shall be set by the chief with approval of the wildlife council.

Commercial fishing gear owned or used by a nonresident may be licensed in this state only if a reciprocal agreement is in effect as provided for in section 1533.352 of the Revised Code.

All commercial license fees shall be paid upon application or shall be paid one-fourth upon application with the balance due and owing within ninety days of the date of application, except that those license fees of one hundred dollars or less shall be paid in full at the time of application.

(B) Royalty fees are hereby established on the following species of fish when taken commercially: catfish, white bass, and yellow perch.

The amount of the royalty fees shall be as follows: on the species taken for which an allowable catch or quota has been established by division rule, five cents per pound. On the species taken for which an allowable catch or quota has not been established by division rule, two cents per pound.

All royalty fees established or provided for in this section shall be paid by the license holder to the division. No person may be issued a commercial fishing license until all royalty fees due from that person for the preceding fishing season have been paid in full. The chief may request the attorney general to recover any royalty fee or amount thereof that is not paid by the opening date of the next fishing season, and the attorney general shall commence appropriate legal proceedings to recover the unpaid fee or amount.

All commercial fishing license moneys and all other fees collected from commercial fishers shall be deposited in the state treasury in accordance with section 1533.33 of the Revised Code.

No person shall fail to comply with any provision of this section or a division rule adopted pursuant to it.

~~In addition to other penalties provided in the Revised Code, the license of any person who is convicted of one or more violations of this section shall be suspended upon the conviction by operation of law for a period of eighteen fishing season months immediately following the conviction.~~

~~During any period of suspension, no person shall use or engage in fishing with commercial gear owned, used, or controlled at the time of conviction by the licensee whose license has been suspended.~~

Sec. 1533.36. (A) No fishing license issued pursuant to section 1533.32 of the Revised Code is transferable, and no ~~fisherman~~ fisher shall carry a license that was issued in the name of another person or that does not contain the signature of the agent issuing it.

(B) Notwithstanding any other provision in the Revised Code and except as otherwise provided by division rule, a licensee holding a commercial fishing license issued pursuant to section 1533.35 of the Revised Code may transfer that license to a person holding a license issued under that section or to a person meeting the qualifications set forth in section 1533.342 of the Revised Code. Such a transfer is subject to all of the following conditions:

(1) The transferred license shall not be sold, offered for sale, or bartered to any person.

(2) The chief of the division of wildlife, with the approval of the director of natural resources, shall determine if any quota species of fish are transferable with the transferred license. In making the determination, the

chief shall use biological, social, and economic data.

~~(3)~~ (3) The transferred license is limited to the type of commercial fishing gear for which the original license was issued;.

~~(2)~~(4) The transfer does not affect any other commercial fishing license privilege possessed by the transferor, ~~and the transferor, as permitted by law, may continue to renew and use any license not transferred;.~~

~~(3)~~(5) Application for the transfer may be made at any time and shall be made simultaneously by the transferor and transferee on forms provided by the division of wildlife;.

~~(4)~~(6) When a commercial fishing license is transferred during the open commercial fishing season, the transferee may be issued a license only upon receipt by the division of payment in an amount equal to the annual fees set forth in section 1533.35 of the Revised Code for the type of commercial fishing gear to be transferred plus any unpaid fees that have not been paid by the transferor at the time of transfer. The division shall not refund fees previously paid by a transferor.

~~(5)~~(7) A commercial fishing license shall be transferred only upon payment to the division of the royalty fees imposed by section 1533.35 of the Revised Code that have accrued to the date of transfer. Royalty fees that accrue with regard to the license on or after the date of transfer are solely the responsibility of the transferee.

~~(6)~~(8) A commercial fishing license may be transferred at any time, but it shall not be transferred if the license is suspended at the time transfer is sought, or if the licensee has been charged with a violation that could result in license suspension;.

~~(7)~~(9) After determining that the transfer of a commercial fishing license is proper, the chief ~~of the division of wildlife~~ shall effect the transfer by revocation of the license of the transferor and simultaneous issuance of the appropriate license to the transferee.

Sec. 1533.42. Except as otherwise provided by division rule, every licensee taking fish with commercial fishing gear, except a trotline of seventy hooks or less, in any of the waters mentioned in this chapter and Chapter 1531. of the Revised Code or division rule, shall keep accurate reports for each day's catch upon forms provided, and in the manner prescribed, by the chief of the division of wildlife. The reports shall be open for inspection by a wildlife officer at all reasonable hours.

Every commercial fishing licensee shall keep an accurate record of each day's catch as prescribed upon a ~~monthly~~ daily report form. The report shall include at least the number of pounds of each kind of fish taken, the ~~locality~~ grid fished, the kind and amount of fishing gear lifted, ~~the number of fishing~~

~~nights~~, the number of lifts, and any other data the biologists employed by the division of wildlife require in following the trend of the fisheries. The licensee shall report each ~~month~~ day, under oath when requested to do so, those data to the chief.

The daily catch data shall be recorded accurately ~~on the respective date upon a report form approved by the chief no later than twelve noon on the day following the day in which the fish were taken. The monthly report and any other report required pursuant to this section shall be submitted to the division no later than the fifteenth day of the month following the end of the calendar month in which the fish were taken~~ in a manner and on a form prescribed by the chief in division rule.

A licensee shall contact the chief or the chief's designee when the licensee is in transit to the licensee's trap nets to lift, move, pull, remove, clean, or maintain the trap nets for any reason and also shall contact the chief or the chief's designee when returning to land with a daily catch of fish from a trap net indicating the licensee's estimated time of arrival at a specific port and any other information required by the chief. The licensee shall contact the chief or the chief's designee by using a cellular telephone, radio, or other communication device in a manner prescribed by the chief.

No person shall fail to comply with any report procedure provided for in this section, other provisions of this section, or division rule adopted pursuant thereto.

~~In addition to other penalties provided in the Revised Code, the license of any person who is convicted of two violations of this section that occurred within a twelve-month period is suspended upon the second such conviction by operation of law for a period of sixty fishing season days immediately following that conviction.~~

~~In addition to other penalties provided in the Revised Code, the license of any person who is convicted of three or more violations of this section that occurred within a twelve-month period is suspended upon the third or subsequent such conviction by operation of law for a period of eighteen fishing season months immediately following that conviction.~~

~~During any period of suspension, no person shall use or engage in fishing with commercial gear owned, used, or controlled at the time of conviction by the licensee whose license has been suspended.~~

Sec. 1533.62. The dimensions and specifications for seines provided in this section shall apply except as otherwise provided by division rule.

Carp, buffalo fish, ~~mullett~~, suckers, sheepshead, goldfish, bowfin, and gizzard shad may be taken with a seine only in the bays, marshes, estuaries, or inlets bordering upon, flowing into, or in any manner connected with

Lake Erie, except in any of these waters that are in the Lake Erie fishing district where they may be taken with other nets as provided in this chapter and Chapter 1531. of the Revised Code. The meshes of one-third of each wing of such a seine, next to the brails, shall measure not less than five inches stretched mesh, and the meshes of the next one-third of each wing shall measure not less than four and one-half inches stretched mesh. The balance of the seine shall measure not less than four inches stretched mesh. All measurements shall be made on the bar as provided in section 1533.52 of the Revised Code. Such fish may be taken only with the seine prescribed in this section in the Ottawa river, no farther up than the Ann Arbor bridge; in the Maumee river, no farther up than the Toledo Cherry street bridge; in the Portage river and in Portage bay, no farther up than one-half mile west of the junction of the Portage and Little Portage rivers; in the Sandusky river, no farther up than an imaginary line running from the west point of Squaw island straight across Sandusky river to Teal Pond Point, thence straight south to the mainland; in Mud creek and in Mud creek bay, no farther up than an imaginary line running straight across Mud creek at a right angle with the course of the stream one-half mile west of the Mud Creek bridge on Port Clinton road; and in the Lacarpe creek, Little Portage river, Tousaint river, Turtle creek, Crane Creek, and Ward's canal, no farther up than the water level of Lake Erie extends in these streams. No person shall set and leave stationary a seine, net, or other device that will tend to interfere with the free movement of fish into or out of the mouth of any stream flowing into or in any manner connected with Lake Erie, wherein fishing with nets is permitted by law, or up or down any section of such streams. In the Lake Erie fishing district, a smaller mesh may be used in the bag of a seine, but such a small mesh bag shall not exceed three hundred fifty feet in length, of which two hundred feet shall be made of twine with meshes not less than three inches stretched mesh, fishing measure, measured on the bar as provided in section 1533.52 of the Revised Code.

No seine shall be used in fishing or had in possession in this state of a greater length than three hundred rods.

This section does not permit the use of any net in any stream flowing into Lake Erie east of the mouth of Sandusky bay, except a minnow net as provided in section 1533.57 of the Revised Code.

No person shall draw, set, place, locate, or maintain any net or seine except a minnow net in that portion of Sandusky bay or Lake Erie lying within the area starting at the northeast end of the Cedar Point jetty, thence on a line drawn straight from the northeast end of Cedar Point jetty to Shafer's dock on Marblehead, thence to the western extremity of Johnson's

island, thence to the loading dock of the Baltimore and Ohio Railroad, and back to the point of origin.

No person shall draw, set, place, locate, or maintain any net except a minnow net in that portion of Sandusky bay lying between Cedar Point and the mainland and east of an imaginary line running straight across Sandusky bay from the extreme west point of Cedar Point to the Baltimore and Ohio elevator dock.

No person shall fail to comply with any provisions of this section or division rule adopted pursuant thereto.

~~In addition to other penalties provided in the Revised Code the license of any person who is convicted of two violations of this section that occurred within a twelve month period is suspended upon the second such conviction by operation of law for a period of five fishing days immediately following that conviction.~~

~~In addition to other penalties provided in the Revised Code the license of any person who is convicted of three or more violations of this section that occurred within a twelve month period is suspended upon the third or subsequent such conviction by operation of law for a period of twenty fishing season days immediately following that conviction.~~

~~During any period of suspension, no person shall use or engage in fishing with commercial gear owned, used, or controlled at the time of conviction by the licensee whose license has been suspended.~~

Sec. 1533.63. Except as otherwise provided by division rule, no person shall take, catch, buy, sell, transport, or possess a whitefish less than seventeen inches in length, a sturgeon less than forty-eight inches in length, a catfish less than fourteen and one-half inches in length, a yellow perch less than eight and one-half inches in length, a yellow perch fillet or part fillet of not less than five and five-eighths inches in length, a headless yellow perch less than six and seven-eighths inches in length, a white bass or white bass hybrid less than eleven inches in length, a headless white bass or white bass hybrid less than eight and three-fourths inches in length, a white bass or white bass hybrid fillet or part thereof less than six and one-half inches in length, a bullhead less than nine inches in length, or a cisco less than eleven inches in length, ~~a buffalo fish less than fifteen inches in length, a sucker less than ten inches in length, or a coho less than twenty five inches in round length or twenty one and one half inches when headless.~~ All such fish caught or taken of a weight or length less than that prescribed in this section or as may be provided by the chief of the division of wildlife immediately shall be released with as little injury as possible while the net, seine, trotline, dip net, or other fishing device is being lifted, pulled, or hauled.

No person shall release such undersized fish or species protected by this chapter and Chapter 1531. of the Revised Code or division rule into a privately owned pond, lake, live car, or other enclosure. No person shall bring ashore, or possess aboard a boat used in commercial fishing ~~when going to or returning from nets or other fishing devices~~, a fish with its head or tail removed or in such condition that its length, weight, or species cannot be determined.

This section does not prohibit the catching, taking, or possession of such undersized fish when caught or taken with hook and line, other than a commercially licensed trotline, but when such fish are so taken, they cannot be bought or sold. No person shall possess such undersized fish or a species of fish that is not permitted to be taken commercially aboard a boat when going to, while on, or when returning from nets or other devices used in commercial fishing.

No licensed commercial fishers, or person required to have a commercial fishing license under section 1533.34 of the Revised Code, shall take walleye, sauger, whitefish, mooneye, cisco, burbot, sturgeon, and blue pike; brook, brown, rainbow, and lake trout; coho, chinook, and kokanne salmon; or other species protected by this chapter and Chapter 1531. of the Revised Code or division rule, from Lake Erie or its tributaries or possess such fish aboard a boat used in commercial fishing when going to or returning from nets or other fishing devices. All such fish caught or taken from a commercial fishing device immediately shall be released with as little injury as possible while the fishing device is being lifted, pulled, or hauled.

No person shall take, buy, sell, ~~barter, give away, deliver, ship,~~ transport, cause to be transported, or possess ~~any package, a container, or~~ quantity, boat load, catch, or haul with more than ten per cent by weight of undersized fish or any other species either round ~~or~~, filleted, or headless mentioned in this section or division rule. The entire quantity of fish containing more than ten per cent by weight of undersized fish shall be confiscated along with its containers. No person shall buy, sell, offer for sale, transport, give away, barter, or possess a fish caught or taken out of season or in any manner prohibited or a fish caught or taken unlawfully from waters in or outside the state. All fish brought into the state from another state or country shall be subject to the laws of this state.

All fish taken or caught from Ohio waters shall be brought into an Ohio port for inspection. No person shall ship, carry, transport, or cause to be transported any fish taken or caught from Ohio waters directly to a point outside the state.

Walleye or sauger originating from outside of this state may be possessed for sale, bought, or sold subject to division rule.

No person shall trade, buy, sell, possess, or transport for sale walleye or sauger taken from waters in this state. In addition, no person shall take, possess, buy, sell, deliver, transport, ship, trade, or give away walleye or any part of a walleye, including roe, that is taken from the Ohio waters of Lake Erie or its tributaries and that is taken with the aid of a commercial fishing device.

Each person who holds a permit under section 1533.301 or 1533.631 of the Revised Code shall keep accurate written records in the English language of all sales and purchases of freshwater fish. The records shall include the name and address of the buyer and seller, the name of fish, the amount of fish in pounds, and the date of sale or purchase. Records for trout, bullhead, herring, whitefish, sauger, walleye, yellow perch, white bass, sturgeon, and channel catfish shall be kept on forms provided by the chief. In lieu of keeping the written records concerning sales of freshwater fish as required under this section, a permit holder, upon applying to and receiving the approval of the chief, may keep the sales information required under this section on normal business records, including, but not limited to, receipts and invoices. All records shall be maintained for at least one year and shall be open to inspection to all division of wildlife officers at all reasonable hours. A buyer who purchases fish for the buyer's own consumption shall not be required to keep records, and persons selling fish for personal consumption shall not be required to record the names and addresses of persons purchasing the fish.

No person shall fail to comply with any provision of this section or division rule adopted pursuant thereto.

~~In addition to other penalties provided in the Revised Code, the license of any person who is convicted of two violations of this section, other than those relating to ten per cent by weight of undersized fish, that occurred within a twelve month period, is suspended upon the second such conviction by operation of law for a period of sixty fishing season days immediately following that conviction.~~

~~In addition to other penalties provided in the Revised Code, the license of any person who is convicted of three or more violations of this section, other than those relating to ten per cent by weight of undersized fish, that occurred within a twelve month period is suspended upon the third or subsequent such conviction by operation of law for a period of eighteen fishing season months immediately following that conviction.~~

~~In addition to other penalties provided in the Revised Code, the license~~

~~or permit of any person who is convicted of two violations of this section relating to walleye or sauger is suspended upon the second such conviction by operation of law for a period of twenty days immediately following that conviction.~~

~~In addition to other penalties provided in the Revised Code, the license or permit of any person who is convicted of three violations of this section relating to walleye or sauger is suspended upon the third such conviction by operation of law for a period of sixty days immediately following that conviction.~~

~~In addition to other penalties provided in the Revised Code, any person who is convicted of four violations of this section relating to walleye or sauger imported from without the state that occurred within a period of thirty-six months is prohibited upon the fourth such conviction by operation of law from transporting, buying, selling, or dealing in walleye and sauger for a period of sixty months immediately following that conviction.~~

~~In addition to other penalties provided in the Revised Code, the license or permit of any person who is convicted of four violations of this section relating to walleye or sauger, other than walleye or sauger imported from without the state, is revoked upon the fourth such conviction by operation of law, and the person is permanently barred from obtaining another license or permit of the type revoked.~~

~~In addition to other penalties provided in the Revised Code, the license of any person who is convicted of three or more violations of this section relating to ten per cent by weight of undersized fish that occurred within a twelve-month period is suspended upon the third or subsequent such conviction by operation of law for a period of twenty fishing season days immediately following that conviction.~~

~~During any period of suspension or revocation, no person shall use or engage in fishing with commercial gear owned, used, or controlled at the time of conviction by the licensee whose license or permit has been suspended or revoked.~~

~~As used in this section, "sale of fish" includes, but is not limited to, fish sold in the round or part thereof and fish sold as part of a meal or service, but does not include canned fish.~~

~~For purposes of determining any license or permit suspension or revocation required by this section, multiple convictions resulting from violations of this section that occurred at the same time, on the same day, and at the same location, are deemed to be a single conviction of one violation.~~

Sec. 1533.631. Any person may apply for a permit to handle

commercial fish, or other fish that may be bought or sold under the Revised Code or division rule, at wholesale. Prior to making application for such a permit, a person first shall satisfy the following qualifications to the satisfaction of the chief of the division of wildlife: over eighteen years of age, no prior conviction of or plea of guilty on or after the effective date of this amendment to a felony concerning commercial fishing activities for a violation of state or federal law, and ninety days Ohio residency immediately preceding application. The chief ~~of the division of wildlife~~ shall issue an annual permit granting the applicant the privilege to handle such fish at wholesale at one or more designated premises upon satisfaction of the pre-application qualifications, filing of an application on a form prescribed by the chief, and payment of a fee of sixty-five dollars. No person or a person's agent shall handle at wholesale any fresh water fish or part thereof unless a permit has been issued for the calendar year in which the fish is handled at wholesale for the premises at which the fish is handled.

A fish is handled at wholesale for purposes of this section when it is on a premises within the state and is being held, stored, handled, or processed for the purpose of sale to a person who ~~ordinarily~~ resells the fish.

The permit required by this section shall be issued subject to the right of entry and inspection of the designated premises of the permittee by any law enforcement officer authorized by section 1531.13 of the Revised Code to enforce the laws and rules of the division of wildlife. Such an officer may enter and inspect the designated premises and any box, package, or receptacle, and the contents thereof, for the purpose of determining whether any provision of this chapter or Chapter 1531. of the Revised Code or division rule is being violated.

No person holding a permit under this section shall remove a label required by section 1533.301 of the Revised Code unless the box, package, or receptacle bearing the label has been opened or unless the label is replaced with another label that meets the requirements of that section.

No person shall fail to comply with any provision of this section or division rule adopted pursuant to it.

~~In addition to other penalties provided in the Revised Code, the permit of any person who is convicted of two violations of this section that occurred within a twelve-month period is suspended upon the second such conviction by operation of law for a period of five fishing season days immediately following that conviction.~~

~~In addition to other penalties provided in the Revised Code, the permit of any person who is convicted of three or more violations of this section that occurred within a twelve-month period is suspended upon the third or~~

~~subsequent such conviction by operation of law for a period of twenty fishing season days immediately following that conviction.~~

~~During any period of suspension, no person shall use or engage in handling commercial fish at wholesale with equipment or facilities owned, used, or controlled at the time of conviction by the permittee whose permit has been suspended.~~

Sec. 1533.64. Fish lawfully confined in a net, or by a device authorized by law, are the property of the owner or person operating the net or other device, ~~and no.~~ No person other than the owner or person in control of the net or other device shall take or catch from it or possess a fish that is or has been so confined unless the person so taking, catching, or possessing the fish has been authorized in writing to do so by the owner or person in control of the net or other device. Each fish taken from and each fish had in possession that was taken from any net or other device legally operated in any of the waters of this state by any person other than the owner or ~~his~~ the owner's agent operating the net or other device constitutes a separate offense.

No person shall fail to comply with this section or a division rule adopted pursuant thereto.

~~In addition to other penalties provided in the Revised Code, the license of any person who is convicted of two violations of this section that occurred within a twelve-month period is suspended upon the second such conviction by operation of law for a period of sixty fishing season days immediately following that conviction.~~

~~In addition to other penalties provided in the Revised Code, the license of any person who is convicted of three or more violations of this section that occurred within a twelve-month period is suspended upon the third or subsequent such conviction by operation of law for a period of eighteen fishing season months immediately following that conviction.~~

~~During any period of suspension, no person shall use or engage in fishing with commercial gear owned, used, or controlled at the time of conviction by the licensee whose license has been suspended.~~

Sec. 1533.641. (A) If a person is convicted of or pleads guilty on or after the effective date of this section to a felony related to commercial fishing activities for a violation of state or federal law, all commercial fishing licenses issued under section 1533.35 of the Revised Code and all permits to handle commercial fish or other fish at wholesale issued under section 1533.631 of the Revised Code to that person are permanently revoked by operation of law.

(B)(1) If a commercial fishing licensee, such a licensee's authorized

representative, a person that has been issued a permit under section 1533.631 of the Revised Code to handle commercial fish or other fish at wholesale, or such a permittee's authorized representative is convicted of or pleads guilty to a violation of section 1533.341, 1533.343, 1533.41, 1533.42, 1533.62, 1533.63, 1533.631, or 1533.64 of the Revised Code or any division rule pertaining to those sections, the licensee's license or the permittee's permit, as applicable, shall be suspended for a period of thirty fishing season days. Not later than seven days after receipt of a notification under division (F) of this section, the chief of the division of wildlife shall suspend the license or permit.

(2) If a person is convicted of or pleads guilty to a second violation of a section of the Revised Code that is listed in division (B)(1) of this section or any division rule pertaining to those sections within ten years after being convicted of or pleading guilty to the first violation, the applicable licensee's license or permittee's permit shall be suspended for a period of sixty fishing season days. Not later than seven days after receipt of a notification under division (F) of this section, the chief shall suspend the license or permit.

(3) If a person is convicted of or pleads guilty to a third violation of a section of the Revised Code that is listed in division (B)(1) of this section or any division rule pertaining to those sections within ten years after being convicted of or pleading guilty to the first violation, the applicable licensee's license or permittee's permit shall be permanently revoked. Not later than seven days after receipt of a notification under division (F) of this section, the chief shall revoke the license or permit.

(C) During any period of suspension of a license or permit under this section, no person shall use or engage in fishing with commercial gear, or in handling commercial fish or other fish at wholesale with equipment, owned, used, or controlled at the time of conviction or plea by the licensee or the licensee's authorized representative or by the permittee or the permittee's authorized representative, as applicable.

(D) A person whose license has been suspended by operation of law pursuant to any provision of this chapter or Chapter 1531, of the Revised Code or division rule is not eligible to apply for or receive a new commercial fishing license issued under section 1533.35 of the Revised Code or a permit to handle commercial fish or other fish at wholesale issued under section 1533.631 of the Revised Code during the period of the suspension.

(E) For purposes of determining a license or permit suspension or revocation for a violation of section 1533.63 of the Revised Code, multiple convictions resulting from violations of that section that occurred at the

same time, on the same day, and at the same location are deemed to be a single conviction of one violation.

(F) The clerk of the court before which a person is convicted of or pleads guilty to a violation of state or federal law as described in division (A) of this section or a section of the Revised Code that is listed in division (B)(1) of this section or any division rule pertaining to those sections shall send written notification to the chief of the conviction or plea together with the person's name and address not later than ten days after the date of conviction or plea.

SECTION 2. That existing sections 1531.10, 1533.34, 1533.341, 1533.342, 1533.35, 1533.36, 1533.42, 1533.62, 1533.63, 1533.631, and 1533.64 of the Revised Code are hereby repealed.

SECTION 3. It is the intent of the General Assembly, by amending sections 1531.10, 1533.34, 1533.341, 1533.342, 1533.35, 1533.36, 1533.42, 1533.62, 1533.63, 1533.631, and 1533.64 and enacting sections 1533.343 and 1533.641 of the Revised Code in this act, to protect the resources of Lake Erie and provide for the reasonable regulation of commercial fishing and not to eliminate commercial fishing in this state.

SECTION 4. (A) There is hereby created the Ohio Lake Erie Fishing Regulatory Reform Task Force. The Task Force shall consist of three members of the House of Representatives appointed by the Speaker of the House of Representatives, two of whom shall be from the majority party and one of whom shall be from the minority party, three members of the Senate appointed by the President of the Senate, two of whom shall be from the majority party and one of whom shall be from the minority party, and the following members appointed by the Governor:

- (1) Two members representing the commercial fishing industry, one of whom shall be a fish wholesaler;
 - (2) Two members representing the sport fishing industry, one of whom shall be a charter boat operator;
 - (3) Two members representing academia with expertise in fisheries management;
 - (4) Two members from the Department of Natural Resources;
 - (5) One member representing the Governor's office.
- Appointments to the Task Force shall be made not later than fifteen

days after the effective date of this section. The Governor shall designate a chairperson of the Task Force. The Task Force shall meet as often as necessary to complete the requirements of this section, but shall meet not less than once each month.

(B) The Task Force shall conduct an evaluation of all of the following:

(1) Catch quota allocations associated with various species of fish in Lake Erie;

(2) Size limitations for species of game fish in Lake Erie;

(3) Existing vessel monitoring devices and electronic reporting devices for charter and commercial fishing vessels;

(4) Possible incentives for catching rough fish;

(5) Fisheries resource management practices in Lake Erie;

(6) Current practices relating to the transfer of commercial fishing licenses;

(7) Fisheries resource management practices utilized by other states bordering the Great Lakes.

(C) Not later than December 31, 2007, the Task Force shall prepare and submit a report of its findings to the General Assembly and the Division of Wildlife in the Department of Natural Resources. The report shall include recommendations for statutory, rulemaking, and regulatory changes to Ohio's commercial fishing laws governing commercial fishing.

(D) After the submission of the report under division (C) of this section, the Task Force ceases to exist.

Am. Sub. S. B. No. 77

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 77

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____